

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1766 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

INDRAJITSINH RANJITSINH

CHUDASAMA

Versus

STATE OF GUJARAT

Appearance:

MS SUMAN PAHWA for Petitioner

MR SS PATEL AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 12/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 3rd November, 1998, made by the District Magistrate, Bhavnagar, under the powers conferred upon

him under sub-section (2) of section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

The petitioner is alleged to be a 'bootlegger' within the meaning of section 2 (b) of the Act, and his activities are found to be prejudicial to the maintenance of public order within the meaning of section 3 (4) of the Act. Three offences punishable under the Bombay Prohibition Act are registered against the petitioner, two of them are pending trial. Besides, four individuals, on assurance of anonymity, have given statements in respect of the anti-social activities of the petitioner and its adverse effect on public tranquility and even tempo of life, and particularly referred to the incidents of 26th October, 1998 and 27th October, 1998 respectively.

It is submitted that the representation made by the petitioner on 17th April, 1999 to the State Government has not been expeditiously dealt with. The petitioner's Constitutional right having thus been infringed, the continued detention of the petitioner is not warranted. It is not disputed that the representation received on 19th April, 1999, was rejected on 4th May, 1999. The only explanation rendered is in respect of the leave of the concerned officer. He has submitted that for 9 days i.e. from 22nd April 1999 till 30th April, 1999, the concerned officer was on leave. The matter was, therefore, attended to on 1st May, 1999, and was rejected on 4th May, 1999. I am afraid, I can not accept the explanation offered by the Government. The representation made by the detenu can not be permitted to be unattended for want of presence of the concerned officer. In view of the prevailing judicial pronouncements, such delay should vitiate the continued detention of the petitioner.

Petition is, therefore, allowed. The order dated 3rd November, 1998 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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